

Message Text

LIMITED OFFICIAL USE

PAGE 01 LIMA 07403 01 OF 02 161730Z

44

ACTION ARA-10

INFO OCT-01 ISO-00 SS-15 L-03 SP-02 TRSE-00 OPR-02 /033 W

----- 011245

R 161542Z AUG 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 1403

LIMITED OFFICIAL USE SECTION 1 OF 2 LIMA 7403

FOR UNDER SECRETARY MAW, ARA - AMB RYAN, L/ARA - MR. KOZAK,
L/EUR - MR. GANTZ, TREASURY - MR. MARESCA

EO 11652: NA

TAGS: BDIS, EINV, EIND, EMIN, PFOR, PE

SUBJ: MARCONA - ADDITIONAL DEVELOPMENTS

REF: LIMA 7246, LIMA 6936

1. SUMMARY: THE GOP HAS ISSUED NEW SUPREME DECREE WHICH
(1) ALLOWS MINPECO TO SELL IRON ORE UNDER FOB CONTRACTS AND
(2) EXCLUDES IRON ORE FROM REQUIREMENT THAT 50 PERCENT OF
EXPORTS MUST BE CARRIED ON PERUVIAN FLAG VESSELS. LOCAL
MARCONA REP BELIEVES DECREE WILL NOT ADVERSELY AFFECT MARCONA
NEGOTIATION, BUT EMBASSY PLANS TO DISCUSS WITH GOP OFFICIALS
TO DETERMINE RATIONALE BEHIND MEASURE. MEANWHILE, GOP CON-
TINUES TO MAKE FAVORABLE STATEMENTS ON THE NEGOTIATIONS.
END SUMMARY.

2. OFFICIAL GAZETTE "EL PERUANO" AUGUST 12 PUBLISHED TEXT
OF SUPREME DECREE NO 024-76 CO/AJ ISSUED AUGUST 11 WHICH
(1) AUTHORIZES MINERO PERU COMMERCIAL (MINPECO), THE PERUVIAN
AGENCY RESPONSIBLE FOR MINERAL SALES, TO MAKE FOB
SALES OF IRON ORE, AND (2) SUSPENDS ENFORCEMENT, IN THE
CASE OF IRON ORE EXPORTS, OF PROVISIONS OF SEVERAL EXIST-
ING DECREES WHICH REQUIRED 50 PERCENT OF EXPORT CARGOS
TO BE SHIPPED ON PERUVIAN FLAG VESSELS. PERTINENT POR-
TIONS OF THE SUPREME DECREE, WITH INFORMAL ENGLISH TRANSLA-
TION, FOLLOW:

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LIMA 07403 01 OF 02 161730Z

A. QUOTE:

CONSIDERANDO

QUE, LA SITUACION ACTUAL DE LA COMERCIALIZACION DE MINERAL DE HIERRO ATRAVIESA POR UNA ETAPA DIFICIL DEBIDO AL EXCESO DE STOCKS EN EL MERCADO MUNDIAL, LO QUE DIFICULTA LA OPORTUNA COLOCACION DE LAS EXISTENCIAS QUE ACTUALMENTE DISPONE EL PAIS;

QUE, LAS OPORTUNIDADES DE VENTA SE VEN EN DETERMINADOS CASOS DIFICULTADAS POR LAS CONDICIONES DE COMPRA FOB QUE DEMANDAN LOS COMPRADORES, LO QUE HACE ACONSEJABLE AUTORIZAR EN VIA DE EXCEPCION A LA EMPRESA PUBLICA DE COMERCIALIZACION DE PRODUCTOS MINEROS - MINERO PERU COMERCIAL -, PARA QUE EFECTUE VENTAS DE MINERAL DE HIERRO PERUANO EN CONDICIONES FOB;

.....

DECRETA:

ARTICULO 1: AUTORIZASE, POR EXCEPCION, A LA EMPRESA PUBLICA DE COMERCIALIZACION DE PRODUCTOS MINEROS-MINERO PERU COMERCIAL, EN COORDINACION CON LA COMPANIA PERUANA DE VAPORES - CPV, A EFECTUAR VENTAS DE MINERAL DE HIERRO PERUANO EN CONDICIONES FOB, EN TANTO PERMANEZCAN LAS DIFICULTADES EN LA COLOCACION DE HIERRO EN EL MERCADO MUNIDAL.

ARTICULO 2: DEJANSE EN SUSPENSO LOS ARTICULOS 14 Y 27 DEL DECRETO SUPREMO NO 12 DE 13 DE MAYO DE 1966 Y 1 DEL DECRETO SUPREMO NO 02-70-TC DE 2 DE JUNIO DE 1970, PARA LAS EXPORTACIONES DE MINERAL DE HIERRO PERUANO QUE REALICE LA EMPRESA PUBLICA DE COMERCIALIZACION DE PRODUCTOS MINEROS - MINERO PERU COMERCIAL, MIENTRAS SUBSISTAN LAS CONDICIONES QUE SE INDICA EN EL ARTICULO 1. END QUOTE

B. ENGLISH TRANSLATION.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LIMA 07403 01 OF 02 161730Z

QUOTE THAT AT THE MOMENT, THE COMMERCIALIZATION OF IRON ORE IS GOING THROUGH A DIFFICULT SITUATION DUE TO THE EXCESS OF STOCKS IN THE WORLD MARKET WHICH MAKES DIFFICULT THE OPPORTUNE PLACEMENT OF THE STOCKS WHICH NOW EXIST IN THE COUNTRY.

THAT THE OPPORTUNITIES FOR SALES, IN CERTAIN CASES, ARE IMPEDED, DUE TO THE FOB SALES CONDITIONS

REQUESTED BY THE PURCHASERS, WHICH MAKES IT ADVISABLE
TO AUTHORIZE EMPRESA PUBLICA DE COMERCIALIZACION
DE PRODUCTOS MINEROS - MINERO PERU COMERCIAL -
AS AN EXCEPTION, TO EXECUTE FOB SALES OF PERUVIAN
IRON ORD.

.....

DECREES

ARTICLE 1: THE EMPRESA PUBLICA DE COMERCIALIZA-
CION DE PRODUCTOS MINEROS - MINERO PERU COMERCIAL -
AS AN EXCEPTION, IS AUTHORIZED, IN COORDINATION
WITH THE COMPANIA PERUANA DE VAPORES - CPV - TO
EXECUTE FOB SALES OF PERUVIAN IRON ORE AS LONG AS
THE DIFFICULTIES TO PLACE IRON IN THE WORLD MARKET
CONTINUE.

ARTICLE 2: THE ENFORCEMENT OF ARTICLES 14 AND 27
OF SUPREME DECREE NO 12 OF MAY 1966, AND ARTICLE 1
OF SUPREME DECREE 012-70-TC OF JUNE 2ND 1970, IS
SUSPENDED IN RELATION TO THE EXPORT OF PERUVIAN IRON
ORE TO BE EXECUTED BY EMPRESA PUBLICA DE COMERCIALI-
ZACION DE PRODUCTOS MINEROS - MINERO PERU COMERCIAL -
AS LONG AS THE CONDITIONS STATED IN ARTICLE 1,
SUBSIST. END QUOTE.

3. ARTICLE 14 OF SUPREME DECREE NO 12 OF MAY 13, 1966
ESTABLISHED A MINIMUM OF 20 PERCENT FOR THE AMOUNT OF
PERUVIAN IMPORTS AND EXPORTS WHICH MUST BE CARRIED IN
PERUVIAN FLAG VESSELS. THIS WAS LATER MODIFIED BY
ARTICLE 1 OF SUPREME DECREE NO 012-70-TC WHICH IN-
CREASED TO 50 PERCENT THE PORTION OF PERUVIAN EXPORT
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 LIMA 07403 01 OF 02 161730Z

CARGOS THAT HAD TO BE SHIPPED ON PERUVIAN BOTTOMS.

ARTICLE 27 OF SUPREME DECREE 27 OF MAY 13, 1966 REQUIRED
THAT EXPORT SALES BY PERUVIAN GOVERNMENT ENTITIES MUST
BE CONTRACTED IN ACCORDANCE WITH CIF OR C AND F CONDITIONS
SO THAT TRANSPORTATION WOULD BE MADE IN SHIPS UNDER
PERUVIAN FLAG, WHEN AVAILABLE.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 LIMA 07403 02 OF 02 161752Z

44

ACTION ARA-10

INFO OCT-01 ISO-00 SS-15 L-03 SP-02 TRSE-00 OPR-02 /033 W

----- 011453

R 161542Z AUG 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 1404

LIMITED OFFICIAL USE SECTION 2 OF 2 LIMA 7403

FOR UNDER SECRETARY MAW, ARA - AMB. RYAN, L/ARA - MR. KOZAK,
L/EUR - MR. GANTZ, TREASURY - MR. MARESCA

4. LOCAL MARCONA REP THOMAS KEHOE, ACCOMPANIED BY HOWARD STEVENSON OF MARCONA SAN FRANCISCO OFFICE, VISITED ACTING DCM AND ECON OFFICER AUGUST 13 TO DISCUSS EFFECT OF THIS LATEST DECREE. BOTH KEHOE AND STEVENSON EXPRESSED MILD CONCERN THAT DECREE COULD ALLOW MINPECO TO MAKE END-RUN AROUND AFFREIGHTMENT CONTRACT BETWEEN MARCONA AND CORPORACION PERUANA DE VAPORES (CPV) WHICH IS TO BE PART OF MARCONA SETTLEMENT. HOWEVER, KEHOE STATED THAT HE HAD BEEN ASSURED BY HIGH-LEVEL MINPECO OFFICIAL THAT SUPREME DECREE WAS RESULT OF INTERNAL DISPUTE BETWEEN MINPECO AND CPV. APPARENTLY UNDER EXISTING LAWS AND DECREES WHICH GIVE CPV ADVANTAGE OVER OTHER SHIPPING COMPANIES, CPV HAD BEEN OBSTACLE IN NUMBER OF FOREIGN SALES ARRANGED BY MINPECO. THE NEW DECREE WILL ALLOW MINPECO TO AVOID HAVING TO SHIP VIA CPV AND THUS IS VICTORY BY MINPECO IN ONE BATTLE WITH CPV. STEVENSON ALSO NOTED THAT LAST CPV DRAFT OF AFFREIGHTMENT CONTRACT CONTAINED PROVISION FOR MARCONA TO RECEIVE "STANDY-BY" FEE OF ROUGHLY \$1.20 PER TON IN EVENT AN ORE SALES IS MADE ON FOB TERMS. THIS INFORMATION WOULD TEND TO BOLSTER MINPECO OFFICIAL'S ASSURANCES TO KEHOE THAT DECREE IS NOT INTENDED TO BYPASS MARCONA. MOREOVER, STEVENSON MENTIONED THAT EXISTING DECREE REQUIRING GOVERNMENT ENTITIES TO MAKE CONTRACTS ON C AND F BASIS HAS NOT BEEN STRICTLY ENFORCED SO THAT PERMISSION TO MAKE FOB CONTRACTS DOES NOT NECESSARILY ALTER DE FACTO SITUATION.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LIMA 07403 02 OF 02 161752Z

5. ACTING DCM STATED EMBOFFS WOULD ATTEMPT TO LEARN

FROM GOP SOURCES PURPOSE OF NEW SUPREME DECREE AND TO VERIFY MARCONA REPS' INTERPRETATION. EMBASSY SEEKING APPOINTMENT SOONEST WITH JOSE LUIS BROUSSET OF GOP MARCONA COMMISSION TO GET READING ON SITUATION.

6. ONE DAY BEFORE ADOPTION OF SUPREME DECREE, FOREIGN MINISTER JOSE DE LA PUENTE, IN RESPONSE TO QUESTION FROM PRESS WHILE DEPARTING ON VISIT TO ARGENTINA, SAID THAT THE MARCONA NEGOTIATIONS WERE ADVANCING IN A CONSTRUCTIVE MANNER. ACCORDING TO THE ACCOUNT IN "LA PRENSA", DE LA PUENTE SAID THAT THE DIALOGUE OVER THE COMPENSATION WAS OPEN AND ORIENTED TOWARD OBTAINING A MUTUALLY SATISFACTORY RESULT. HE ADDED THAT IF WAS VERY POSSIBLE THAT THE DIALOGUE WITH THE U.S. MARCONA COMMISSION WOULD BE RENEWED AT THE END OF AUGUST.

7. COMMENT: IN VIEW OF GOP EXPRESSED DESIRE TO HAVE U.S. MARCONA TEAM COME TO LIMA BY END OF AUGUST TO ATTEMPT TO WRAP UP NEGOTIATIONS, WE BELIEVE IT UNLIKELY GOP WOULD CREATE STUMBLING BLOCK AT THIS TIME THROUGH NEW DECREE. AT THIS POINT, WE WILLING TO ACCEPT MINPECO EXPLANATION AS REPORTED BY KEHOE PARA 4 ABOVE. HOWEVER, AS NOTED, WE WILL INVESTIGATE RATIONALE BEHIND MEASURE WITH BROUSSET AND OTHERS.
SMITH

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMPENSATION, NATIONALIZATION, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976LIMA07403
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760314-0472
From: LIMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760851/aaaabrud.tel
Line Count: 248
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 LIMA 7246, 76 LIMA 6936
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by saccheem>; APPROVED <28 OCT 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MARCONA - ADDITIONAL DEVELOPMENTS
TAGS: BDIS, EINV, EIND, EMIN, PFOR, PE, US, MARCONA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006